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EXAMINER

VU, NGOC K

ART UNIT

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2611

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/535,105	<b>Applicant(s)</b> ARSENAULT ET AL.	
	<b>Examiner</b> Ngoc K. Vu	<b>Art Unit</b> 2611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/15/05</u> . | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/8/2005 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1-6 and 8-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because there is no antecedent basis for the limitation "the first priority" in lines 10 and 12. Appropriate correction is required.

Claim 2 is indefinite because there are no antecedent basis for the limitations "the first priority" in line 2; "the second priority" in lines 10 and 12. Appropriate correction is required.

Claim 8 is indefinite because there is no antecedent basis for the limitation "the first priority" in line 2

Claim 9 is indefinite because there is no antecedent basis for the limitation "the first priority value" in line 9.

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Claim 11 is indefinite because there is no antecedent basis for the limitation "the first priority value" in lines 2-3.

Claim 12 is indefinite because there is no antecedent basis for the limitation "the first priority value" in line 3.

Claim 13 is indefinite because there are no antecedent basis for the limitation "the first priority" in line 9.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 5, 6, 9, 10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz et al. (US 6,088,722 A).

Regarding claim 1, Herz discloses a method for selecting a first digital object (a video/data program) display in an electronic television program guide:

receiving the first digital object (video/data program) from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

determining first and second fuzzy variable values (cp values) associated with the first digital object (determining first and second cp values associated with video/data program, for example, cp values of program number 4 "Terminator II" from content profiles as shown in table

in column 21 are “0.0” for “romance” and “10.0” for “high-tech” – see content profiles in col. 21 and col. 22, lines 25-35);

calculating a first priority value by mapping the first and second fuzzy variable values onto an at least three dimensional profile surface adapted for determining preferences associated with a television viewer (calculating AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as “romance”, “high-tech” and “violence”) adapted for determining preferences (i.e. agreement matrix) associated with a television viewer (i.e., user “John”) (see col. 22, lines 40-45; col. 41, lines 57-64);

comparing the first priority to a predefined threshold (comparing AC value to a predefined threshold “1” – see col. 22, lines 26-57 and col. 24, lines 3-7); and

selecting the first digital object for display in the electronic television program guide if the first priority crosses the predefined threshold (selecting the program if its AC value is the closest to “1” for display in the program guide – see col. 22, lines 40-51; col. 24-3-7; col. 23, lines 51-64; col. 26, lines 5-15; col. 42, lines 11-18; col. 47, lines 9-17).

Regarding claim 2, Herz discloses setting the predefined threshold to the first priority (from the agreement matrix, the program with highest AC value or the AC value most approaching to “1” indicates that user most prefers that program, for example, user John prefers program “Terminator II” since its AC value is 0.429 which most approaches to “1”. In other words, this feature includes setting the predefined threshold “1” to the AC value to determine the program that user prefers - see table agreement matrix in column 22; col. 22, lines 47-51);

receiving a second digital object receiving the first digital object (video/data program) from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

determining third and fourth fuzzy variable values (cp values) associated with the second digital object (determining third and forth cp values associated with video/data program, for example, cp values of program number 1 "Star Trek" from content profiles as shown in table in column 21 are "2.0" for "romance" and "9.0" for "high-tech" – see content profiles in col. 21 and col. 22, lines 25-35);

calculating a second priority value by mapping the third and forth fuzzy variable values onto an at least three dimensional profile surface adapted for determining preferences associated with a television viewer (calculating AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as "romance", "high-tech" and "violence") adapted for determining preferences (i.e. agreement matrix) associated with a television viewer (i.e., user "Mary") (see col. 22, lines 40-45; col. 41, lines 57-64);

comparing the second priority to the predefined threshold (comparing AC value to the predefined threshold "1" – see col. 22, lines 26-57 and col. 24, lines 3-7); and

selecting the second digital object for display in the electronic television program guide if the first priority crosses the predefined threshold (selecting the program if its AC value is the closest to "1" for display in the program guide – see col. 22, lines 40-51; col. 24-3-7; col. 23, lines 51-64; col. 26, lines 5-15; col. 42, lines 11-18; col. 47, lines 9-17).

Regarding claim 3, Herz teaches displaying the first digital object in the television program guide (see col. 47, lines 9-13; col. 23, lines 50-64).

Regarding claim 5, Herz teaches selecting a number (highest AC value) based on the comparison between the first priority value and the predefined threshold, and associating the display of the first digital object with the selected number (display the program with highest AC value in the program guide - see col. 22, lines 47-51; col. 23, lines 51-64; col. 47, lines 9-18).

Regarding claim 6, Herz teaches that the program comprises an advertising (see col. 49, lines 37-40).

Regarding claim 9, Herz discloses an apparatus for displaying a first digital object (a video/data program) in an electronic television program guide comprising:

a receiver (within set top terminal) that receives the first digital object from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

a controller (906) for determining first and second fuzzy variable values (cp values) associated with the first digital object (determining first and second cp values associated with video/data program, for example, cp values of program number 4 "Terminator II" from content profiles as shown in table in column 21 are "0.0" for "romance" and "10.0" for "high-tech" – see content profiles in col. 21 and col. 22, lines 25-35), the controller calculating a first priority by mapping the first and second fuzzy variable values onto an at least three dimensional profile surface adapted for determining preferences associated with a television viewer (calculating AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as "romance", "high-tech" and "violence") adapted for determining preferences (i.e. agreement matrix) associated with a television viewer (i.e., user "John") (see col. 22, lines 40-45; col. 41, lines 57-64), the controller comparing the first priority value to a predefined threshold (comparing AC value to a predefined threshold "1" – see col. 22, lines 26-57 and col. 24, lines 3-7 and figure 9), and

a display (TV), the controller (906) causing the display to present the first digital object in the electronic television program guide if the first priority crosses the predefined threshold (presenting the program in the program guide if its AC value is the closest to "1" – see col. 22, lines 40-51; col. 24-3-7; col. 23, lines 51-64; col. 26, lines 5-15; col. 42, lines 11-18; col. 47, lines 9-17).

Regarding **claim 10**, Herz teaches the receiver is further adapted to receive a second digital object from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

the controller is further adapted to determine third and fourth fuzzy variable values associated with the second digital object (determining third and forth cp values associated with video/data program, for example, cp values of program number 1 "Star Trek" from content profiles as shown in table in column 21 are "2.0" for "romance" and "9.0" for "high-tech" – see content profiles in col. 21 and col. 22, lines 25-35); and

the controller is further adapted to determine the predefined threshold by mapping the third and fourth fuzzy variable values onto the profile surface (determining AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as "romance", "high-tech" and "violence", then comparing the AC value with threshold "1" - see col. 22, lines 40-45; col. 41, lines 57-64).

Regarding **claim 12**, Herz teaches that the controller is adapted to select a number (highest AC value) based on the comparison between the first priority value and the predefined threshold, and associate the display of the first digital object with the selected number (display the program with highest AC value in the program guide - see col. 22, lines 47-51; col. 23, lines 51-64; col. 47, lines 9-18).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



8. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US 6,088,722 A) in view of Lemmons (US 6,481,011 B1).

Regarding claims **4 and 11**, Herz teaches comparison between the first priority value (AC value) and the predefined threshold ("1") and displaying program in the program guide with highlighting (col. 22, lines 26-57 and col. 24, lines 3-7; col. 47, lines 11-18). Herz does not explicitly teach associating the display of the first digital object with a selected color based on the comparison. However, Lemmons discloses associating the display of program information with a selected color based on the comparison between the display priority criteria. (See col. 9, lines 2-33; col. 3, lines 46-53). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Herz by associating the display of program information with a selected color based on the comparison between the display priority criteria as disclosed by Lemmons in order to highlight programming of the type the user likes.

9. Claims 7, 8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Herz et al. (US 6,088,722 A) in view of Lazarus et al. (US 5,652,613 A).

Regarding claim **7**, Herz teaches a method for selecting a first digital object (video/data program) associated with an electronic television program guide, the method comprising:

receiving the first digital object (video/data program) from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

determining first and second fuzzy variable values associated with the first digital object (determining first and second cp values associated with video/data program, for example, cp values of program number 2 "Damnation Alley" from content profiles as shown in table in column 21 are "5.0" for "romance" and "0.0" for "high-tech" – see content profiles in col. 21 and col. 22, lines 25-35);

calculating a first priority value by mapping the first and second fuzzy variable values onto an at least three dimensional profile surface (calculating AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as "romance", "high-tech" and "violence") adapted for determining preferences (i.e. agreement matrix) associated with a television viewer (i.e., user "John") (see col. 22, lines 40-45; col. 41, lines 57-64);

comparing the first priority value to a predefined threshold (comparing AC value to a predefined threshold "0" – see col. 22, lines 26-57 and col. 24, lines 3-7).

As addressed above, Herz teaches that the programs having the AC values which approach to "1" indicate that the viewer most prefers these programs so that they are selected for display in the program guide. On the other hand, a program having the lowest AC value which approaches to "0" indicates that the viewer least likes that program. For example, viewer John prefers program number 4 and least likes program number 2 as shown in table agreement matrix in column 22 and col. 22, lines 47-51.

Herz does not teach deleting program unlikely to be used from a memory or deleting the unused information from the memory. However, Lazarus discloses that a memory management system deletes the least valuable information to free memory space (see col. 4, lines 10-29; col. 4-5, lines 60-21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Herz by deleting the least valuable information or the unused information from the memory as taught by Lazarus in order to free memory space.

Regarding claim 8, Herz discloses setting the predefined threshold to the first priority (from the agreement matrix, the program with lowest AC value or the AC value most approaching to "0" indicates that user least prefers that program, for example, user John least

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prefers program "Damnation Alley" since its AC value is 0.131 which most approaches to "0". In other words, this feature includes setting the predefined threshold "0" to the AC value to determine the program that user least prefers - see table agreement matrix in column 22; col. 22, lines 47-51);

receiving a second digital object receiving the first digital object (video/data program) from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

determining third and fourth fuzzy variable values (cp values) associated with the second digital object (determining third and forth cp values associated with video/data program, for example, cp values of program number 1 "Star Trek" from content profiles as shown in table in column 21 are "2.0" for "romance" and "9.0" for "high-tech" – see content profiles in col. 21 and col. 22, lines 25-35);

calculating a second priority value by mapping the third and forth fuzzy variable values onto an at least three dimensional profile surface adapted for determining preferences associated with a television viewer (calculating AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as "romance", "high-tech" and "violence") adapted for determining preferences (i.e. agreement matrix) associated with a television viewer (i.e., user "Mary") (see col. 22, lines 40-45; col. 41, lines 57-64);

comparing the second priority to the predefined threshold (comparing AC value to the predefined threshold "1" – see col. 22, lines 26-57 and col. 24, lines 3-7); and

selecting the second digital object for display in the electronic television program guide if the first priority crosses the predefined threshold (selecting the program if its AC value is the closest to "1" for display in the program guide – see col. 22, lines 40-51; col. 24-3-7; col. 23, lines 51-64; col. 26, lines 5-15; col. 42, lines 11-18; col. 47, lines 9-17).

Regarding claim 13, Herz discloses an apparatus for displaying a first digital object (a video/data program) in an electronic television program guide comprising:

a receiver (within set top terminal) that receives the first digital object from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

a controller (906) for determining first and second fuzzy variable values (cp values) associated with the first digital object (determining first and second cp values associated with video/data program, for example, cp values of program number 2 "Damnation Alley" from content profiles as shown in table in column 21 are "5.0" for "romance" and "0.0" for "high-tech" – see content profiles in col. 21 and col. 22, lines 25-35), the controller calculating a first priority value by mapping the first and second fuzzy variable values onto an at least three dimensional profile surface (calculating AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as "romance", "high-tech" and "violence") adapted for determining preferences (i.e. agreement matrix) associated with a television viewer (i.e., user "John") (see col. 22, lines 40-45; col. 41, lines 57-64), the controller comparing the first priority to a predefined threshold (comparing AC value to a predefined threshold "0" – see col. 22, lines 26-57 and col. 24, lines 3-7), and a memory (within the set top terminal) coupled to the controller (906) (see figure 9).

As addressed above, Herz teaches that the programs having the AC values which approach to "1" indicate that the viewer most prefers these programs so that they are selected for display in the program guide. On the other hand, a program having the lowest AC value which approaches to "0" indicates that the viewer least likes that program. For example, viewer John prefers program number 4 and least likes program number 2 as shown in table agreement matrix in column 22 and col. 22, lines 47-51.

Herz does not teach deleting program unlikely to be used from a memory or deleting the unused information from the memory. However, Lazarus discloses that a memory management system deletes the least valuable information to free memory space (see col. 4, lines 10-29; col. 4-5, lines 60-21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Herz by deleting the least valuable information or the unused information from the memory as taught by Lazarus in order to free memory space.

Regarding claim 14, Herz teaches the receiver is further adapted to receive a second digital object from DBS (see col. 46, lines 54-56; col. 42, lines 22-23; col. 48, lines 49-51 and figure 9);

the controller is further adapted to determine third and fourth fuzzy variable values associated with the second digital object (determining third and forth cp values associated with video/data program, for example, cp values of program number 1 "Star Trek" from content profiles as shown in table in column 21 are "2.0" for "romance" and "9.0" for "high-tech" – see content profiles in col. 21 and col. 22, lines 25-35); and

the controller is further adapted to determine the predefined threshold by mapping the third and fourth fuzzy variable values onto the profile surface (determining AC value by associating the cp values of the program with an at least three dimensional customer profile included three variables such as "romance", "high-tech" and "violence", then comparing AC value with threshold "0" - see col. 22, lines 40-45; col. 41, lines 57-64).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Ngoc K. Vu', with a long horizontal flourish extending to the right.

Ngoc K. Vu  
Primary Examiner  
Art Unit 2611

October 31, 2005